

NEBRASKA STATE BOARD OF HEALTH MEETING
DRAFT MINUTES – November 15, 2021

ATTENDANCE NOTIFICATION. The Chair, Dr. Doug Vander Broek, called a regular meeting of the State Board of Health to order at 1:02 PM on November 20, 2021 in Conference Room Lower Level B of the Nebraska State Office Building in Lincoln. Copies of the agenda were mailed electronically to board members and other interested parties prior to the meeting, and posted on the Health and Human Services website. The following members were present: Russell Crotty, OD; Shane Fleming, MSN, RN; Michael Kotopka, DDS; John Kuehn, DVM; Donald Ostdiek, DPT; Mark Patefield, PharmD; David Reese, MHA; Daniel Rosenthal, PE; Robert (Bud) Synhorst, MEd; Timothy Tesmer, MD; Doug Vander Broek, DC; Dan Vehle; Joshua Vest, DPM. Quorum met.
Staff and others in attendance: Matt Gelvin, Monica Gissler; Marla Scheer.
Board members not in attendance: Joel Bessmer, MD; Diane Jackson, APRN; Colton Palmer, PMHNP

APPROVAL OF AGENDA. Dr. Vander Broek asked if there were any changes to the agenda for the meeting today and the minutes from September 20, 2021. Dr. Vest made a motion to approve the agenda, seconded by Mr. Vehle; voting yes: 13 (Crotty, Fleming, Kotopka, Kuehn, Ostdiek, Patefield, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle, Vest); voting no: 0; not voting: 0. Motion carried.

UPDATES, REPORTS

Public Health Update – Ms. Wisell gave an update on LANCE, the Licensing and Certification Environment. It will replace the LIS, Licensing Information System. Testing will go live in January for physical therapy and cosmetology.

The Governor issued two new Executive Orders about workforce capacity. One brought back provisions to issue temporary licenses, and licenses for professionals from other states. We are starting to see facilities closing due to staffing shortages.

Travis Smith, a Licensure Unit radiologic health physicist, won an international essay contest on climate change and atomic energy.

Legislation – Ms. Lowe and Mr. Bartels shared an update on the bills passed, the Interim Studies, and the impact to DHHS. There was a handout on the upcoming legislative studies and hearings.

Board of Health Chair – Dr. Vander Broek reported the following:

1. Professional board meeting attendance:

It is important that you let Monica know in advance when you plan to attend a meeting, and if you plan to attend the entire meeting or just a portion. When you arrive at the meeting, please make a point of introducing yourself to the Board staff, and then to the full Board as the Board of Health liaison. This applies to both in-person and WebEx meetings.

- Dr. Kuehn attended the October 27th Board of Veterinary Medicine and Surgery meeting.
 - Dr. Kotopka attended the October 8th Board of Dentistry meeting.
 - Dr. Tesmer attended the October 22nd Board of Medicine and Surgery meeting.
2. Later today we will elect our Board of Health officers for the 2022 calendar year. We will still accept names for the ballot.
 3. There may be a need for a special meeting scheduled for rules and regulations in December. If so, this will be via telephone.
 4. Annual reports will be presented today with Committee reports. Committee Chairs – please work with your assigned staff to update the reports after today for finalization.

Credentialing Review (407) Committee – Mr. Fleming, Committee Chair, presented.
<https://dhhs.ne.gov/licensure/Pages/Credentialing-Review.aspx>

- Approve recommendations for Appointments to the Upcoming Applied Behavior Analysts Review Committee. Mr. Reese volunteered to serve as Chair of the Technical Review Committee for ABA.

Members of the Public Member Pool

Debra Parsow
 Stephen Peters

Members of the Health Professional Pool

Jeffery Howorth
 Darrell Klein
 Denise Logan
 Kevin Low

Voting yes: 13 (Crotty, Fleming, Kotopka, Kuehn, Ostdiek, Patefield, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle, Vest); voting no: 0; not voting: 0. Motion carried.

Rules and Regulations Committee – Dr. Vest, Committee Chair, reported. Regulations were reviewed with staff during the morning committee meeting.
<https://dhhs.ne.gov/Pages/DHHS-Regulations.aspx>

- 172 NAC 120 – Licensure of Optometrists – Jesse Cushman, Program Contact. The proposed regulation removes duplicative statutory and regulatory language and provides a reference to 172 NAC 10. Chapter 10 provides requirements, guidance, and consistency to all individuals who may be applying for a credential, renewing and reinstating a credential, and definitions and other processes that are consistent for all credential holders under the Uniform Credentialing Act. Changes to this chapter include inclusion of reciprocity language as outlined in Neb. Rev. Stat. § 38-129.02.

Also included was clarification that live and interactive virtual courses count towards live in-person hours and not the home study hour's limit.

- 178 NAC 7 – Clean Indoor Air – Doug Gillespie, Program Contact. The proposed changes reflect the current statutes and remove obsolete or redundant language. The public hearing was held October 4, 2021.
- 181 NAC 3 – Admin Appeal Procedures WIC & CSFP, Sara Morgan, Program Contact. This regulation describes the administrative appeal procedures for applicants, food vendors, and local agencies participating in Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and the Commodity Supplemental Food (CSF) Programs. Current regulations were reformatted and corrected to come into alignment with federal regulations by removing any redundant language and updating definitions to reflect current federal language. The actual levels of regulation, requirements for compliance, and levels of public health protections are not being altered in any way.
- 181 NAC 40 – Nebraska Breast & Cervical Cancer Program – Sara Morgan, Program Contact. The proposed changes will lower the age of eligibility for cervical cancer screening from 40 to 21 years to align with federal guidelines. These changes will also update other eligibility criteria and program requirements as well as remove obsolete or redundant language.

Dr. Vander Broek asked if anyone wanted any of the regulations separated out for individual voting. Dr. Vest made a Committee motion to approve all proposed rules and regulations with one collective vote. Voting yes: 13 (Crotty, Fleming, Kotopka, Kuehn, Ostdiek, Patefield, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle, Vest); voting no: 0; not voting: 0. Motion carried.

- UCA Regulation Status Report. Forty-eight sets of regulations have been signed; six are current at the Attorney General's, there will be two public hearings in December; and there are about 20 sets of regulations still to go. A special Board of Health meeting will be held on December 14, 2021 to review proposed regulations.
- The Annual Committee Report was presented.

Professional Boards Committee. Dr. Crotty, Committee Vice Chair, reported. They conducted five interviews in person and by telephone in the morning, and reviewed two other applications.

Board of Advanced Practice Registered Nursing

Andrew Russell, MD, from Lincoln, was appointed to a Physician position.

Board of Hearing Instrument Specialists

* Aaron Robinson, MD, from Lincoln, was reappointed to the Otolaryngologist position.

Board of Occupational Therapy

* Marcus Doughty, OT, from North Platte, was reappointed to the Occupational Therapist position.

Board of Podiatry

Jon Goldsmith, DPM, from Omaha, was appointed to a Podiatrist position.

Public Member Applicants

Vanetta Early, MAL, from Bellevue, was appointed to the Board of Athletic Trainers.

Kent Dunovan, from Lincoln, was appointed to the Board of Advanced Practice Registered Nurses.

Darrell Klein, JD, from Lincoln, was appointed to the Board of Pharmacy.

Dr. Crotty made a Committee motion to approve the appointment and recommendations. Voting yes: 13 (Crotty, Fleming, Kotopka, Kuehn, Ostdiek, Patefield, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle, Vest); voting no: 0; not voting: 0. Motion carried.

We are still seeking public members for Dentistry; Funeral Directors and Embalmers; Hearing Instrument Specialists; and Medical Nutrition Therapy, along with a few professional positions. <https://dhhs.ne.gov/licensure/Pages/Board-Requirements-and-Vacancies.aspx>

Public Health, Education and Legislation Committee: Dr. Kuehn, Committee Chair, reported.

- Governor Ricketts attended the morning committee meeting of the whole. He thanked the Board of Health members for serving, and shared his vision. He said that we need to be balanced, and ask these questions:
 - What did we do before the Covid pandemic?
 - What are we doing during the pandemic?
 - What can we do better?
- Discussion continued regarding the Board of Health's role with regard to legislation and how we evaluate an introduced bill.

The Board took a Recess from 2:07 PM – 2:15 PM.

PUBLIC COMMENTS. None.

UNFINISHED BUSINESS.

Dr. Kuehn and Dr. Vander Broek addressed comments on veterinarians registering for the PDMP. Amy Reynoldson, from the NMA, said they now support physicians registering for the PDMP, but not requiring them to actually be users of the system. All agreed that there is more work needed to be done with it.

NEW BUSINESS.

- Election of Officers for 2022. Nominations were opened up:
- Chair – Dr. Tesmer was nominated
- Vice Chair – Mr. Synhorst was nominated for a second term
- Secretary – Mr. Reese was nominated

All nominations were accepted. As there was only one candidate per office, there was one motion for all three positions. Congratulations to our new officers!

There was discussion about how the Board of Health members feel about the requirements for businesses to enforce Covid vaccination requirements. Members want to have a press release issued on their behalf. This is what they approved:

Although the Board of Health encourages individuals to make personal decisions in consultation with their health care providers, in regard to Covid 19 vaccinations, it is the opinion of the Nebraska Board of Health that in light of current health care worker shortages, that a vaccine mandate for employers is strongly discouraged.

Dr. Tesmer made a motion for approval, with a second by Mr. Vehle. Voting yes: 12 (Crotty, Fleming, Kotopka, Kuehn, Ostdiek, Patefield, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle); voting no: 0; not voting: 0. Motion carried. Dr. Vest had left the meeting.

Then Mr. Synhorst added the following amendment, with a motion, with a second by Mr. Vehle:

Send the statement to members of the Executive and Legislative branches and ask DHHS to issue a press release, if possible.

Voting yes: 10 (Crotty, Fleming, Kotopka, Kuehn, Ostdiek, Patefield, Reese, Rosenthal, Synhorst, Tesmer, Vehle); voting no: 1 (Reese); not voting: 1 (Vander Broek). Motion carried.

TOPICS AND PREPARATION FOR NEXT MEETING. The next regular Board of Health meeting will be January 24, 2022 in Lincoln. Location is the Nebraska State Office Building.

- Board of Health meeting dates for 2022:
January 24; PHEL Committee will meet January 19 at 1:00 PM
March 21
June 13
September 19; Professional Board interviews on September 18
November 14

ADJOURN. There being no further business, Dr. Bessmer made a motion to adjourn, with a second by Dr. Kotopka; all in favor by voice vote. The meeting adjourned at 2:53 PM. Minutes were taken by Monica Gissler, and are scheduled for approval by the State Board

of Health on January 24, 2022.

NOTE: If you would like to receive these minutes electronically, please send a request to the email address below. Please also inform staff if you would like to be removed from this distribution list altogether.

If you would like any attachments mentioned in these minutes, or have other questions, please contact Monica Gissler, 402/471-2948, or email at: monica.gissler@nebraska.gov.
Board of Health: <https://dhhs.ne.gov/licensure/Pages/Board-of-Health.aspx>

11/29/21, mcg